

Name	Fraser Cropper
Are you responding as an individual or on behalf of an organisation?	Organisation (independently owned electronic cigarette company)
Organisation and role	Managing Director of Totally Wicked Ltd
Telephone number	[REDACTED]
E-mail address	[REDACTED]
Would you like to be added to the Committee's contacts database for future inquiries?	Yes, for anything relating to electronic cigarettes.
Would you be content to attend a Committee meeting to give oral evidence?	Yes.

Dear Mr Rees,

Public Health (Wales) Bill Consultation Response

Totally Wicked welcomes the opportunity to respond to the above named consultation.

Totally Wicked is an independent electronic cigarette manufacturing business based in Lancashire. The company, which was formed in 2008 now employs over 120 people locally and has established businesses in both Germany and the United States. Significantly, unlike most companies in this sector, Totally Wicked manufacture in the UK and export globally. This includes the manufacture of our own fluid ranges which use only UK sourced ingredients and our own product development team which includes a dedicated manufacturing and assembly business in Lancashire. Since 2008 Totally Wicked has been responsible for creating over 500 jobs in eight EU Member States.

Totally Wicked has a significant presence throughout Wales in terms of customers and individual retail outlets selling our products.

The guiding principle of our business is to put our customers' needs first. We therefore wish for our sector to be robustly and proportionately regulated. We have always gone above and beyond what has been required under the current regulatory regime. Over the last year we have also been working with Public Health, consumers, Trading Standards, and others from our industry to develop the very first nationally recognised voluntary standard that electronic cigarette and e-liquid manufacturers, importers and distributors can adopt to provide assurance to their end customers that they are doing the right things to ensure quality and safety in the end product – British Standards Institution Publicly Available Specification for vaping products (BSI PAS 54115).

According to figures produced by the Welsh Government around 5,450 people die from a tobacco related illnesses every year in Wales¹ costing the Welsh taxpayer £302 million.² Figures produced by ASH Wales/Cymru show that a staggering 21 per cent of the adult population in Wales still smoke.³ Part two of this bill should therefore be focussed on working to reduce both the number of smokers and the number of people who die from smoking related illnesses. Electronic cigarettes have a significant role to play in this.⁴ In Wales at least 130,000 smokers have switched to vaping.⁵ This is not surprising as NRT products have a 90 per cent failure rate.⁶ Electronic cigarettes by comparison are recognised as being at least 60 per cent more effective in helping smokers to quit.⁷ Electronic cigarettes are now recognised as the number one quitting aid used by smokers.⁸

¹ <http://www.wales.nhs.uk/sitesplus/922/page/59800>

² ASH Wales/Cymru and BHF Cymru (2013). The economic cost of smoking to Wales: a review of existing evidence

³ http://www.ash.org.uk/files/documents/ASH_93.pdf

⁴ http://summaries.cochrane.org/CD010216/TOBACCO_can-electronic-cigarettes-help-people-stop-smoking-or-reduce-the-amount-they-smoke-and-are-they-safe-to-use-for-this-purpose

⁵ <http://ashwales.org.uk/en/information-resources/topics/electronic-cigarettes>

⁶ Dr Jed Rose, Director of the Duke Center for Smoking Cessation and a Professor in the Department of Psychiatry and Behavioral Sciences at Duke University Medical Center, speaking at the Global Forum on Nicotine (Warsaw, Saturday 6th June 2015): <http://gfn.net.co/downloads/2015/Plenary%20Jed%20Rose.pdf>

⁷ Study carried out on 5,000 smokers, by Professor Robert West looking at the success rate of different methods to stop smoking: nicotine gum, nicotine patches, nothing, or e-cigarettes. Reported on BBC Breakfast 28 April 2014

⁸ <http://ashwales.org.uk/en/whats-new/we-welcome-extensive-research-by-public-health-england-on-the-safety-of-electronic-cigarettes>

Regulation whilst being robust needs to be proportionate. Policy makers with an interest in public health should therefore develop regulation that allows adult smokers throughout Wales to have the genuine choice of an alternative and significantly less harmful product. That means electronic cigarettes need to be an attractive products for established smokers.

For clarification, Totally Wicked has no links to the tobacco industry.

In this context please find below Totally Wicked's responses to the aspects of the Public Health Wales Bill that relate to electronic cigarettes and e-liquids.

Part 2: Tobacco and Nicotine Products

1. Do you agree that the use of e-cigarettes should be banned in enclosed public and work places in Wales, as is currently the case for smoking tobacco?

Totally Wicked does not think that the use of electronic cigarettes should be banned in enclosed public and work places in Wales.

The Welsh Government states that the purpose of the Bill provisions is to bring the use of electronic cigarettes into line with existing provisions on smoking. Why? Electronic cigarettes are not a tobacco product as the recent negotiations surrounding the revision of the Tobacco Products Directive made clear, electronic cigarettes are a consumer product. The new rules from the Committee of Advertising Practice for the marketing of electronic cigarettes actually state: 'Marketing communications / advertisements must make clear that the product is an e-cigarette and not a tobacco product.'⁹

If electronic cigarettes are not a tobacco product why should they be subjected to the same regulatory regime as tobacco products, particularly when the recent Independent Expert Evidence Review published by Public Health England concluded that electronic cigarettes are at least 95 per cent less harmful than tobacco products?¹⁰

The rationale for introducing the ban on smoking tobacco in enclosed public areas was to protect the health of non-smokers. This same rationale does not exist for vaping because as a growing body of independent scientific evidence is showing – electronic cigarette vapour poses no harm to bystanders.¹¹

The Welsh Government state three reasons for wanting to ban the use of vaping in enclosed public and work places in Wales:

- It may lead to a renormalisation of smoking,
- It could undermine the current smoking ban, and
- It might be a gateway to smoking.

As Elen de Lacy, Chief Executive of ASH Wales/Cymru has made clear,¹² policy relating to electronic cigarettes should be evidence based. It should not be based on 'mays', 'coulds', and 'mights'.

Does vaping in enclosed public and work places lead to a renormalisation of smoking? No. A wide variety of independent public health experts have looked into the issue of renormalisation of smoking and a link to vaping and all have concluded that there is no link. Vaping normalises vaping, it is as simple as that. Robert West, Professor of health psychology and director of tobacco studies at University College London's department of epidemiology and

⁹ <https://www.cap.org.uk/News-reports/Media-Centre/2014/~//media/Files/CAP/Consultations/ecig%20consultation/Regulatory%20Statement.ashx>

¹⁰ <https://www.gov.uk/government/publications/e-cigarettes-an-evidence-update>

¹¹ <https://www.gov.uk/government/publications/e-cigarettes-an-evidence-update>

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<http://tobaccocontrol.bmj.com/content/early/2013/03/05/tobaccocontrol-2012-050859.abstract>

<http://www.sciencedirect.com/science/article/pii/S0273230014002505>

<http://informahealthcare.com/doi/abs/10.3109/08958378.2012.724728>

<http://www.biomedcentral.com/1471-2458/14/18/abstract>

¹² <http://ashwales.org.uk/en/whats-new/we-welcome-extensive-research-by-public-health-england-on-the-safety-of-electronic-cigarettes>

public health, following his latest research concluded: “Despite claims that electronic cigarettes risk re-normalising smoking, we found no evidence to support this.”¹³

Does vaping in enclosed public and work places undermine the current smoking ban? No. The Chartered Institute of Environmental Health stated that there is a 99.7 per cent compliance rate with the smoking ban, and they have found no evidence to support the idea that vaping in public is undermining this.¹⁴

Does vaping in enclosed public and work places result in a gateway to smoking? No. Recent research from ASH has shown that just 0.1 per cent of vapers had never smoked tobacco products previously. Given the fact that 99.9 per cent of people who vape are current or former smokers, it is not surprising that electronic cigarettes are not acting as a gateway to smoking.¹⁵

The weight of independent evidence so unequivocally demonstrates that a ban on the use of electronic cigarettes in enclosed public and work places would be disproportionate, counterproductive from a public health standpoint, go against the precautionary principle as originally intended, and demonstrate that the Welsh Government and the Welsh Assembly’s Health and Social Care Committee were worrying about problems that do not exist. Importantly, there is no justification for a ban as electronic cigarettes are not a tobacco product nor is the vapour from electronic cigarettes harmful to bystanders.

2. What are your views on extending restrictions on smoking and e-cigarettes to some non-enclosed spaces (examples might include hospital grounds and children’s playgrounds)?

Totally Wicked is an independent company with no links to the tobacco industry, furthermore neither electronic cigarettes nor e-liquids are tobacco products or tobacco related products. Totally Wicked therefore will not comment on issues directly relating to the regulation of tobacco products.

Totally Wicked does not support the extension of the proposed restrictions on electronic cigarettes to some non-enclosed spaces such as hospital grounds and children’s playgrounds.

The Welsh Government and the Welsh Assembly’s Health and Social Care Committee must ask themselves what current problem requires a ban on vaping in non-enclosed public spaces such as hospital grounds and children’s playgrounds. In addition to this they must consider the impact on public health such a ban would have.

Is the current use of electronic cigarettes in hospital grounds and children’s playgrounds leading to an increase in smoking rates? No. Recently published figures from the Welsh Health Survey show a two per cent fall in the proportion of people smoking in Wales since 2013.¹⁶ This has coincided with a rise in the number of smokers switching from smoking to vaping. As Professor Robert West has made clear, there is a link between a rise in vaping and a fall in tobacco sales.

Is the current use of electronic cigarettes in hospital grounds and children’s playgrounds leading to non-smokers and children taking up vaping? No. The latest research from ASH continues to show no evidence that electronic cigarettes are encouraging young people to take up smoking.¹⁷ Official figures from the Office of National Statistics show that only 0.14 per cent of vapers have never smoked previously.¹⁸

Is the current use of electronic cigarettes in hospital grounds and children’s playgrounds resulting in a renormalisation of smoking? No. A wide variety of independent public health experts have looked into the issue of renormalisation of smoking and a link to vaping and all have concluded that there is no link. Vaping normalises vaping, it is as simple as that. Professor Robert West, following his latest research concluded: “Despite claims that electronic cigarettes risk re-normalising smoking, we found no evidence to support this.”¹⁹

¹³ <http://metro.co.uk/2014/04/27/e-cigs-cleared-of-being-route-into-smoking-4710734/>

¹⁴ Meeting of the All-Party Groups on Smoking and Health, Pharmacy, and Heart Disease 10 June 2014

¹⁵ <http://www.theguardian.com/society/2014/apr/28/e-cigarette-users-triple-ash-survey>

¹⁶ <http://wales.gov.uk/topics/statistics/theme/health/health-survey/results/?lang=en>

¹⁷ <http://www.ash.org.uk/media-room/press-releases/latest-data-finds-no-evidence-that-electronic-cigarettes-are-a-gateway-to-smoking-for-young-people>

¹⁸ <http://www.ons.gov.uk/ons/rel/ghs/opinions-and-lifestyle-survey/adult-smoking-habits-in-great-britain--2013/sty-facts-about-smoking.html>

¹⁹ <http://metro.co.uk/2014/04/27/e-cigs-cleared-of-being-route-into-smoking-4710734/>

Is the current use of electronic cigarettes in hospital grounds and children's playgrounds damaging to the health of non-vapers? No. A growing body of independent scientific evidence demonstrates that electronic cigarette vapour poses no harm to bystanders.²⁰

Would the introduction of a ban on the use of electronic cigarettes in hospital grounds and children's playgrounds lead to more or fewer smokers switching to from smoking to vaping? Fewer. Such a ban would send a message to smokers that the Welsh Government equates vaping with smoking and that the Welsh Government considers vaping a negative rather than a positive activity.

Research undertaken by Dr Konstantinos Farsalinos²¹ demonstrates that smokers' perceptions of risk are very far from accurately aligned with reality. This affects their smoking/vaping behaviour. It is therefore very easy for a vaper to go back to being a smoker or a smoker to stay a smoker. In Spain a ban on the use of electronic cigarettes in public combined with a series of unsubstantiated negative stories in the media relating to vaping lead to a fall of 70 per cent in the number of vapers in Spain.²² These people did not just give up vaping, they went back to smoking.

In reality vaping is at least 95 per cent less harmful than smoking.²³ There is never a situation where it is better for someone to smoke than to vape. As Professor John Britton from the Royal College of Physicians has said, "If all the smokers in Britain stopped smoking cigarettes and started using e-cigarettes we would save five million deaths in people who are alive today. It's a massive potential public health prize."²⁴

The Royal Society for Public Health has recently called on health chiefs across the UK to take a less negative attitude towards electronic cigarettes²⁵ and the UK Government's Behavioural Insights Team and Sir Jeremy Heywood, Cabinet Secretary and Head of the Civil Service have publicly declared their support for electronic cigarettes in helping smokers switch to a significantly less harmful alternative.²⁶ Importantly, far from discouraging vaping in places such as children's playgrounds and hospital grounds, the British Dental Health Foundation called for electronic cigarettes to be used in "prominent public locations" so as to encourage their use.²⁷ It is interesting to note that based on the latest evidence The Royal Stoke Hospital is now reviewing its previous decision to ban vaping in the hospitals grounds.²⁸

Rather than discouraging vaping, the Welsh Government should be encouraging smokers to switch to vaping.

If the current use of electronic cigarettes in hospital grounds and children's playgrounds is not leading to non-smokers and children taking up vaping, is not leading to an increase in smoking rates, is not leading to a renormalisation of smoking, and is not harmful to the health of non-vapers, what possible justification could the Welsh Government have for introducing such a move, particularly when the evidence suggests that such a move would lead to fewer smokers switching to vaping and significant numbers of vapers going back to smoking?

As Elen de Lacy, Chief Executive of ASH Wales/Cymru has made clear,²⁹ policy relating to electronic cigarettes should be evidence based. There is no evidence demonstrating a need to ban the use of electronic cigarettes in places such as hospital grounds and children's playgrounds. There is also no evidence to suggest that such a ban would have a positive impact on public health across Wales.

²⁰ <https://www.gov.uk/government/publications/e-cigarettes-an-evidence-update>

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<http://www.sciencedirect.com/science/article/pii/S0273230014002505>

<http://informahealthcare.com/doi/abs/10.3109/08958378.2012.724728>

<http://www.biomedcentral.com/1471-2458/14/18/abstract>

²¹ <http://www.ecigarette-research.com/research/index.php/component/k2/item/85-the-importance-of-proper-information-risk-perception-about-e-cigarettes-is-the-strongest-predictor-of-dual-use&Itemid=213>

²² <http://www.thinkspain.com/news-spain/24345/e-cigarette-sales-in-spain-drop-by-70-per-cent>

²³ <https://www.gov.uk/government/publications/e-cigarettes-an-evidence-update>

²⁴ The Independent Newspaper, 29 March 2013

²⁵ <https://www.rsph.org.uk/en/about-us/latest-news/press-releases/press-release1.cfm/pid/542EBBA5-9D34-4791-A1B90FF9F2BA3C00>

²⁶ <https://civilservice.blog.gov.uk/2015/08/11/how-the-nudge-unit-threw-light-on-lighting-up/>

²⁷ <http://www.dentalhealth.org/news/details/875>

²⁸ <http://www.stokesentinel.co.uk/8203-Royal-Stoke-bosses-review-ban-staff-using-e/story-27681321-detail/story.html>

²⁹ <http://ashwales.org.uk/en/whats-new/we-welcome-extensive-research-by-public-health-england-on-the-safety-of-electronic-cigarettes>

3. Do you believe the provisions in the Bill will achieve a balance between the potential benefits to smokers wishing to quit with any potential dis-benefits related to the use of e-cigarettes?

Totally Wicked does not believe that the provisions in the Bill will achieve a balance between the potential benefits to smokers wishing to quit with any potential dis-benefits related to the use of electronic cigarettes.

This question states that there are potential dis-benefits related to vaping and that the benefits of switching from smoking are only 'potential'. Totally Wicked is unaware of any such dis-benefits based on currently available evidence, and far from being 'potential', the benefits of switching from smoking to vaping are real and are recognised as being such by a growing number of independent experts and millions of vapers across the world.

Vaping is at least 95 per cent less harmful than smoking.³⁰ There is never a situation where it is better for someone to smoke than to vape. As Professor John Britton from the Royal College of Physicians has said, "If all the smokers in Britain stopped smoking cigarettes and started using e-cigarettes we would save five million deaths in people who are alive today. It's a massive potential public health prize."³¹ With 99.9 per cent of vapers being current or former smokers there is also no issue of electronic cigarettes being used on a regular basis by never-smokers or children.³² There is also no evidence to show that vaping leads to neither a renormalisation of smoking, nor any evidence that vaping acts as a gateway to smoking. There is no evidence to suggest that vaping in public undermines the smoking ban. The Chartered Institute of Environmental Health stated that there is a 99.7 per cent compliance rate with the smoking ban, and they have found no evidence to support the idea that vaping in public is undermining this.³³ Finally, a growing body of independent research demonstrates that electronic cigarette vapour is not harmful to bystanders.³⁴

What this bill does do is equate vaping with smoking and electronic cigarettes with tobacco cigarettes. Vaping is not smoking and electronic cigarettes are not a tobacco product. How is this helpful for a smoker wishing to switch to a less harmful alternative?

Figures produced by ASH Wales/Cymru show that a staggering 21 per cent of the adult population in Wales still smoke.³⁵ All those with a genuine interest in public health should be working to reduce this number.

Many smokers have tried to quit numerous times using NRT products and have failed. However, with vaping they have cut down or ceased smoking. In Wales at least 130,000 smokers have switched to vaping.³⁶ This is not surprising as NRT products have a 90 per cent failure rate.³⁷ Electronic cigarettes by comparison are recognised as being at least 60 per cent more effective in helping smokers to quit.³⁸ Electronic cigarettes are now recognised as the number one quitting aid used by smokers.³⁹

Electronic cigarettes deliver clean nicotine – without the tar, carbon monoxide, and volatile hot gases of cigarettes. For smokers who switch, they hugely reduce risk, while satisfying any need for nicotine and some of the behavioural aspects of smoking. As the UK Government has recognised, it is much easier to substitute a similar (less harmful) behaviour than to eliminate an entrenched one.⁴⁰ Fundamentally, unlike NRT products they are customisable to an individual smokers needs. A vaper can choose what device they want, they can choose their nicotine strength, and they can choose their flavour of e-liquid.

³⁰ <https://www.gov.uk/government/publications/e-cigarettes-an-evidence-update>

³¹ The Independent Newspaper, 29 March 2013

³² <http://www.ons.gov.uk/ons/rel/ghs/opinions-and-lifestyle-survey/adult-smoking-habits-in-great-britain--2013/sty-facts-about-smoking.html>

³³ Meeting of the All-Party Groups on Smoking and Health, Pharmacy, and Heart Disease 10 June 2014

³⁴ <https://www.gov.uk/government/publications/e-cigarettes-an-evidence-update>

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³⁵ http://www.ash.org.uk/files/documents/ASH_93.pdf

³⁶ <http://ashwales.org.uk/en/information-resources/topics/electronic-cigarettes>

³⁷ Dr Jed Rose, Director of the Duke Center for Smoking Cessation and a Professor in the Department of Psychiatry and Behavioral Sciences at Duke University Medical Center, speaking at the Global Forum on Nicotine (Warsaw, Saturday 6th June 2015):

<http://gfn.net.co/downloads/2015/Plenary%20Jed%20Rose.pdf>

³⁸ Study carried out on 5,000 smokers, by Professor Robert West looking at the success rate of different methods to stop smoking: nicotine gum, nicotine patches, nothing, or e-cigarettes. Reported on BBC Breakfast 28 April 2014

³⁹ <http://ashwales.org.uk/en/whats-new/we-welcome-extensive-research-by-public-health-england-on-the-safety-of-electronic-cigarettes>

⁴⁰ <https://civilservice.blog.gov.uk/2015/08/11/how-the-nudge-unit-threw-light-on-lighting-up/>

With literally thousands of devices and flavours, and multiple nicotine strengths available how does a smoker wishing to switch to vaping know what device, nicotine strength, and flavour is right for them? Initially they do not and that is why vape shops are so fundamentally important.

By visiting a vape shop a smoker benefits not just from the expertise of the vendor, but critically, they are able to sample the different devices, nicotine strengths, and flavours. This allows them to find a device, nicotine strength, and flavour that are right for them. Virtually no smoker walks into a shop picks up a cig-a-like product and successfully switches to vaping, it is more complicated than that. The expert advice and the product sampling are critically important in virtually all successful switch attempts. This means that they need to vape in an enclosed public place.

If the Welsh Government succeeds in banning vaping in enclosed public places then vapers will be forced to go back to standing with the smokers, re-enforcing their smoking habits and letting them wrongly understand that vaping is the same as smoking, when in reality it is 95 per cent less harmful.⁴¹ This will expose them to the dangers of second-hand smoke and penalises a smoker that has taken decisive action to switch to a less harmful product. It is the equivalent of holding an Alcoholics Anonymous meeting in a pub. Why would any government do this?

The Welsh Government's proposed ban will also prevent vape shops from allowing smokers to sample devices, nicotine strengths, and flavours and their own impact assessment acknowledges this. As a direct consequence of this the importance of vape shops will decline so many will close, resulting in empty premises and unemployment. More importantly, without the ability to sample nicotine strengths, devices, and flavours in advance, a smoker would simply have to guess what flavour they might like, what nicotine strength they might need, and what device is best for them. Virtually all will make the wrong guesses and few will go back to try and get it right for a second time. This will mean that fewer smokers will successfully switch to vaping and will therefore continue to smoke and die prematurely.

This bill will remove fundamentally important aspects of the switching process from smoking to vaping: the ability to sample the different devices, nicotine strengths, and flavours. Take away a smokers ability to vape in a vape shop and you put a barrier in the road to them switching to a significantly less harmful alternative. Take away a smokers ability to witness vaping at work or in the pub and you deprive them of the chance encounter that for many smokers was their first step on the road to vaping. What possible public health benefit does the Welsh Government hope to achieve with this proposed ban?

Far from achieving a balance, this bill in focussing on a small number of unfounded fears related to vaping, will make it harder for smokers to switch to a significantly less harmful alternative. As a result many vapers will go back to smoking and many smokers will never make the switch to vaping.

4. Do you have any views on whether the use of e-cigarettes re-normalises smoking behaviours in smoke-free areas, and whether, given their appearance in replicating cigarettes, inadvertently promote smoking?

For Totally Wicked this is not about having views, it is about the evidence. As Elen de Lacy, Chief Executive of ASH Wales/Cymru has made clear,⁴² policy relating to electronic cigarettes should be evidence based. Is there any credible evidence linking the use of electronic cigarettes in smoke-free areas with a renormalisation of smoking behaviours? Totally Wicked is aware of no such evidence.

There is a very simple way of demonstrating this. Electronic cigarettes have been used in smoke-free areas throughout Wales since roughly 2008. In that time have smoking rates in Wales increased or decreased? They have continued to decrease. Recently published figures from the Welsh Health Survey show a two per cent fall in the proportion of people smoking in Wales since 2013.⁴³ This has coincided with a significant year-on-year rise in the number of smokers switching from smoking to vaping. As Professor Robert West has made clear, there is a link between a rise in vaping and a fall in tobacco sales. If vaping was leading to a renormalisation of or promotion of smoking then surely smoking rates would be increasing rather than decreasing.

⁴¹ <https://www.gov.uk/government/publications/e-cigarettes-an-evidence-update>

⁴² <http://ashwales.org.uk/en/whats-new/we-welcome-extensive-research-by-public-health-england-on-the-safety-of-electronic-cigarettes>

⁴³ <http://wales.gov.uk/topics/statistics/theme/health/health-survey/results/?lang=en>

Professor Robert West, following his latest research concluded: “Despite claims that electronic cigarettes risk re-normalising smoking, we found no evidence to support this.”⁴⁴

The Chartered Institute of Environmental Health stated that there is a 99.7 per cent compliance rate with the smoking ban, and they have found no evidence to support the idea that vaping in public is undermining this.⁴⁵

Vaping normalises vaping, it is as simple as that. This is a point that is clearly understood by the British Dental Health Foundation who recently called for electronic cigarettes to be used in “prominent public locations” so as to encourage and normalise their use.⁴⁶

There is no credible evidence showing that vaping in smoke-free areas either promotes or leads to a renormalisation of smoking and it must be evidence that guides policy development.

5. Do you have any views on whether e-cigarettes are particularly appealing to young people and could lead to a greater uptake of their use among this age group, and which may ultimately lead to smoking tobacco products?

For Totally Wicked this is not about having views, it is about the evidence. As Elen de Lacy, Chief Executive of ASH Wales/Cymru has made clear,⁴⁷ policy relating to electronic cigarettes should be evidence based. Is there any credible evidence showing that young people are using electronic cigarettes on a regular basis or that electronic cigarettes act as a gateway to smoking? Totally Wicked is aware of no such evidence.

In recent years a huge amount of highly credible independent work has been carried out looking at electronic cigarette usage amongst young people and the gateway issue.

Research undertaken by Queen Mary University in London⁴⁸ found that a child trying a tobacco cigarette for the first time is 50 per cent likely to become a regular smoker. The same research found no evidence that a child trying an electronic cigarette for the first time goes on to become a regular vaper. A recent study by John Moores University found that, ‘Overall seven out of eight young people had never accessed e-cigarettes’⁴⁹.

Recently Cardiff University came to the same conclusion: ‘E-cigarettes are popular with teens, including those who have never smoked, but few of those who try them become regular users, with most of those who do so also being smokers.’⁵⁰

ASH regularly carries out research into the use of electronic cigarettes by children, they concluded: ‘Of those who had heard of e-cigarettes and had never smoked a cigarette, 98 per cent reported never having tried an electronic cigarette and two per cent reported having tried them “once or twice”. There is almost no evidence of regular electronic cigarette use among children who have never smoked or who have only tried smoking once.’⁵¹

Cancer Research UK looked in detail at two major studies into electronic cigarette use amongst young people in Wales, they concluded: ‘Looking specifically at two studies dedicated to the use of e-cigarettes amongst young people in Wales only a minority of teenagers who try e-cigarettes go on to become regular users. And the majority of those who do use the devices regularly were already smokers.’⁵²

On the issue of gateway, Deborah Arnott, Chief Executive of ASH, said, “There is no evidence from our research that e-cigarettes are acting as a gateway into smoking.”⁵³

Official figures from the Office of National Statistics show that only 0.14 per cent of vapers are people who have never previously smoked.⁵⁴

⁴⁴ <http://metro.co.uk/2014/04/27/e-cigs-cleared-of-being-route-into-smoking-4710734/>

⁴⁵ Meeting of the All-Party Groups on Smoking and Health, Pharmacy, and Heart Disease 10 June 2014

⁴⁶ <http://www.dentalhealth.org/news/details/875>

⁴⁷ <http://ashwales.org.uk/en/whats-new/we-welcome-extensive-research-by-public-health-england-on-the-safety-of-electronic-cigarettes>

⁴⁸ Research undertaken by Professor Peter Hajek, Director of the Tobacco Dependence Research Unit at Queen Mary University of London

⁴⁹ John Moores University – ‘Young People’s Perceptions and Experiences of Electronic Cigarettes’

⁵⁰ <http://www.cardiff.ac.uk/news/view/93573-e-cigarette-use-among-welsh-teenagers>

⁵¹ http://www.ash.org.uk/files/documents/ASH_950.pdf

⁵² <http://www.cancerresearchuk.org/about-us/cancer-news/news-report/2015-04-16-regular-e-cigarette-use-low-among-teens-analysis-suggests>

⁵³ <http://metro.co.uk/2014/04/27/e-cigs-cleared-of-being-route-into-smoking-4710734/>

If electronic cigarettes were being used by young people on a regular basis then the evidence would show this and it does not. If electronic cigarettes were acting as a gateway to smoking then the evidence would show this and it does not.

6. Do you have any views on whether restricting the use of e-cigarettes in current smoke-free areas will aid managers of premises to enforce the current non-smoking regime?

For Totally Wicked this is not about having views, it is about the evidence. As Elen de Lacy, Chief Executive of ASH Wales/Cymru has made clear,⁵⁵ policy relating to electronic cigarettes should be evidence based. Is there any credible evidence to show that vaping in current smoke-free areas is undermining the smoking ban or leading confusion amongst staff or venue managers? Totally Wicked is aware of no such credible evidence.

This question is based on the outdated premise that all vapers will be using a product that looks like a tobacco cigarette. The overwhelming majority of vapers use second, third, and even fourth generation products that look nothing like tobacco cigarettes. Therefore arguments about electronic cigarettes making it difficult for venues to enforce the smoking ban do not really hold water particularly when the Chartered Institute of Environmental Health, the body charge with enforcing the smoking ban, stated that there is a 99.7 per cent compliance rate with the smoking ban, and they have found no evidence to support the idea that vaping in public is undermining this.⁵⁶

Commenting on this issue, ASH stated, "The fact that some electronic cigarettes look similar to conventional cigarettes has been said to risk confusion as to their use in enclosed public places, such as public transport. However, given that the most distinctive feature of cigarette smoking is the smell of the smoke, which travels rapidly, and that this is absent from electronic cigarette use, it is not clear how any such confusion would be sustained."⁵⁷

Some companies and places of work have introduced their own bans on the use of electronic cigarettes. The overwhelming majority of these were done prior to the most recent evidence on vaping being available. However, a growing number of such organisations are now reversing these bans as new evidence emerges as to the benefits of vaping. Recently, Cambridgeshire Police, following a review of "health fears", decided to allow their officers to vape at work⁵⁸. Other public bodies such as the Royal Stoke Hospital⁵⁹ and Hertfordshire County Council⁶⁰ are also reconsidering their previous position on vaping in favour of a more positive stance. In the private sector companies are also reversing previously imposed bans on vaping. Leading Pubco Enterprise Inns have recently reversed their ban on vaping in their licensed premises. Recently, the Chartered Institute of Environmental Health published advice to employers encouraging them to allow their employees to vape at work.⁶¹

Recently ASH and the Chartered Institute of Environmental Health have been working together to promote vaping policies for businesses and the public sector. Totally Wicked recommends that the Welsh Assembly's Health and Social Care Committee looks at the positive results generated from this work.

7. Do you have any views on the level of fines to be imposed on a person guilty of offences listed under this Part?

Totally Wicked is an independent company with no links to the tobacco industry, furthermore neither electronic cigarettes nor e-liquids are tobacco products or tobacco related products. Totally Wicked therefore will not comment on issues directly relating to the regulation of tobacco products.

The offences listed under part two of the Bill are:

- a) An individual using an electronic cigarette in an enclosed public or work place in Wales,

⁵⁴ <http://www.ons.gov.uk/ons/rel/ghs/opinions-and-lifestyle-survey/adult-smoking-habits-in-great-britain--2013/sty-facts-about-smoking.html>

⁵⁵ <http://ashwales.org.uk/en/whats-new/we-welcome-extensive-research-by-public-health-england-on-the-safety-of-electronic-cigarettes>

⁵⁶ Meeting of the All-Party Groups on Smoking and Health, Pharmacy, and Heart Disease 10 June 2014

⁵⁷ http://ash.org.uk/files/documents/ASH_715.pdf

⁵⁸ <http://www.cambridge-news.co.uk/Cambridge/Police-in-Cambridgeshire-can-smoke-e-cigarettes-after-health-review-but-they-are-banned-on-our-trains-20130821131920.htm>

⁵⁹ <http://www.stokesentinel.co.uk/8203-Royal-Stoke-bosses-review-ban-staff-using-e/story-27681321-detail/story.html>

⁶⁰ <http://www.hertfordshiremercury.co.uk/Council-support-e-cig-report/story-27686172-detail/story.html>

⁶¹ <http://www.thetimes.co.uk/tto/health/news/article4534760.ece>

- b) A body, company or employer allowing electronic cigarettes to be used on their premises (enclosed public or work places), and
- c) Knowingly handing over an electronic cigarette or e-liquid to someone under the age of 18.

The fines are set out under section 37 of the Criminal Justice Act 1982 and for the purposes of part two of the Bill are level one and level four on the standard scale of fines for summary offences. A level one fine is set at up to and including but not exceeding £200 and a level four fine is set at up to and including but not exceeding £2,500.

Someone found guilty of offence a) would be subject to a level one fine, whilst offences b) and c) carry a level four fine.

Totally Wicked supports the creation of a new offence of knowingly handing over electronic cigarettes and/or e-liquids to a person under the age of 18.

Totally Wicked believes that electronic cigarettes are a product for current/former adult smokers and current users of nicotine containing products. Therefore Totally Wicked fully supports a ban on the sale of electronic cigarettes to those under the age of 18.

Totally Wicked has been voluntarily implementing a ban on the sale of electronic cigarettes and e-liquids to those under the age of 18 for the past seven years, as have other responsible companies.

However, this bill draws equivalence with tobacco in terms of punishment. Someone who knowingly hands over an electronic cigarette or a bottle of e-liquid is fined the same amount as someone who knowingly hands over a packet of tobacco cigarettes.

To be clear, Totally Wicked supports the ban on knowingly handing over electronic cigarettes or e-liquids to someone under the age of 18 and anyone found guilty of such an act should be fined. However by fining such a person the same amount as someone who has been found guilty of handing over a tobacco product implies that the Welsh Government views these two products as the same. They are not the same. Tobacco is a highly dangerous product that currently results in around 5,450 people deaths from tobacco related illnesses every year in Wales,⁶² costing the Welsh taxpayer £302 million.⁶³ In contrast electronic cigarettes are recognised as being at least 95 per cent less harmful than tobacco products, have helped at least 130,000 smokers in Wales to reduce the amount they smoke or quit all together,⁶⁴ and they cost the Welsh taxpayer nothing.

Yes offenders should be punished and repeat offenders should be restricted from selling electronic cigarettes and e-liquids for a defined period (see question 10), but the fine should be proportionate to the product in question.

For the reasons set out in answer to questions one, three, four, six, and 12 Totally Wicked does not believe there to be any justification for the Welsh Government's proposed ban on vaping in enclosed public and work places throughout Wales.

Totally Wicked therefore does not believe there to be any justification for the offences listed under this part in relation to either personally using an electronic cigarette in or allowing electronic cigarettes to be used in enclosed public and work places.

With this in mind, if the Welsh Government's ban on vaping in enclosed public and work places is introduced then Totally Wicked believes that it is unacceptable, in terms of fines, to treat electronic cigarettes and tobacco products in the same way. For the reasons set out above they are completely different products.

The rationale for introducing the ban on smoking tobacco in enclosed public areas was to protect non-smokers whose health could be damaged through passive smoking. So someone smoking a tobacco product in an enclosed public or work place is not just breaking the law, they are also having a negative impact on the health of those around them. The same would apply to a company, venue manager or employer who allowed someone to

⁶² <http://www.wales.nhs.uk/sitesplus/922/page/59800>

⁶³ ASH Wales/Cymru and BHF Cymru (2013). The economic cost of smoking to Wales: a review of existing evidence

⁶⁴ <http://ashwales.org.uk/en/information-resources/topics/electronic-cigarettes>

smoke in an enclosed public or work place. However, with electronic cigarettes the vapour produced is of no harm to bystanders.⁶⁵

The law is full of examples where punishments differ depending on the exact nature of the crime. Two people can be found guilty of what on paper looks like similar offences only to see their punishments differ. The law does not simply punish people for breaking the law; it takes into account what they did in breaking the law. Speeding is one such example. There is not a single punishment for breaking the speed limit. When determining the appropriate punishment to give someone who has been found guilty of speeding the law takes into account how many miles above the speed limit they were driving at. Someone found guilty of driving at five miles above the limit will receive a more lenient punishment than someone found guilty of driving at 20 miles above the limit. Illegal drugs are another example. Someone found guilty of possessing/smuggling/selling a class C drug will find themselves far more leniently punished than someone found guilty of possessing/selling a class A drug.

Totally Wicked sees no reason what-so-ever why this same principle should not apply to the offences listed under this part of the Bill.

8. Do you agree with the proposal to establish a national register of retailers of tobacco and nicotine products?

Totally Wicked is an independent company with no links to the tobacco industry, furthermore neither electronic cigarettes nor e-liquids are tobacco products or tobacco related products. Totally Wicked therefore will not comment on issues directly relating to the regulation of tobacco products.

Totally Wicked does not agree with the proposal to establish a national register of retailers of tobacco and nicotine products.

The Welsh Government and the Welsh Assembly's Health and Social Care Committee must ask themselves what current problem necessitates the creation of such a register and what would be the impact on public health in Wales if such a register was introduced.

In its justification for introducing this register the Welsh Government states that, "It has long been established that nicotine is highly addictive." Is it?

All Totally Wicked e-liquids use pharmaceutical grade MHRA approved nicotine. This is exactly the same nicotine that is contained in NRT products; is the Welsh Government proposing that retailers of NRT products also be included on this register? If nicotine is the sole reason for including electronic cigarette retailers on such a register then surely *all* retailers of *all* nicotine containing products should be included, and if not, why not?

The reality is the clean nicotine contained in e-liquids is not harmful. Professor Robert West said, "E-cigarettes are about as safe as you can get. We know about the health risks of nicotine. Nicotine is not what kills you when you smoke tobacco. E-cigarettes are probably about as safe as drinking coffee."⁶⁶ Recently ASH⁶⁷ and the Royal Society of Public Health⁶⁸ have publicly called for more to be done to ensure that medical professionals, the media, and the public understand that nicotine is 'not the deadly component in cigarettes.' Furthermore, both the National Institute for Health and Care Excellence (NICE) and the MHRA have ruled that long term use of nicotine is not detrimental to the health of the user.⁶⁹ In 2013, NICE identified a need for better public understanding of the relative safety of nicotine containing products.⁷⁰

⁶⁵ <https://www.gov.uk/government/publications/e-cigarettes-an-evidence-update>
Safety evaluation and risk assessment of electronic cigarettes as tobacco cigarette substitutes: a systematic review: Konstantinos E. Farsalinos and Riccardo Polosa published online 13 February 2014 *Therapeutic Advances in Drug Safety*
<http://tobaccocontrol.bmj.com/content/early/2013/03/05/tobaccocontrol-2012-050859.abstract>
<http://www.sciencedirect.com/science/article/pii/S0273230014002505>
<http://informahealthcare.com/doi/abs/10.3109/08958378.2012.724728>
<http://www.biomedcentral.com/1471-2458/14/18/abstract>

⁶⁶ The Guardian newspaper 05 June 2013

⁶⁷ <http://www.ash.org.uk/ash-supports-calls-for-more-to-be-done-on-public-understanding-of-nicotine>

⁶⁸ <http://www.theguardian.com/society/2015/aug/13/health-bosses-promote-e-cigarettes-harmful-tobacco-smoking-experts>

⁶⁹ <http://www.nice.org.uk/guidance/ph45>

⁷⁰ Ibid

Appearing before the Scottish Parliament's Health and Sport Committee, Linda Bauld, Professor of Health Policy at the University of Stirling made it clear that nicotine when consumed in a form other than tobacco is not a harmful or a particularly addictive substance.⁷¹ It is for this reason that some years ago, for example, health officials felt able to approve the use of nicotine patches for pregnant woman.

Nicotine is a normal and natural part of the diet. It is present in many vegetables and fruits including aubergines, tomatoes, cauliflowers, and potatoes.⁷² It is present in other foodstuffs, including tea. That it is dependence-forming unless/until it is administered in tobacco cigarette smoke or used by smokers/ex-smokers has been questioned by scientists. Tobacco cigarette smoke contains at least 9,600 other compounds,⁷³ some of which are likely to be synergens; some are likely to be additives that may boost the effect by freebasing it; some are the multiple other active alkaloids in tobacco; and some pyrolytic compounds may be dependence forming, in addition. Tobacco cigarettes, far from being simple products are very carefully engineered. A recent study found that electronic cigarettes, far from generating dependence equivalent to cigarette smoking, were comparable in addictiveness to nicotine gums.⁷⁴

Based on independent evidence it would appear that nicotine becomes highly addictive after being supplied with a cocktail of 9,600 other compounds. Nicotine is certainly dependence-creating when delivered in tobacco cigarette smoke: many (but not all) smokers become dependent on nicotine. However, there is no evidence that nicotine is highly addictive in the pure form as delivered in the diet, through NRT or electronic cigarettes, indeed, many vapers actually forget to use their electronic cigarettes. Would they do this if they were addicted?

If nicotine in the form consumed in electronic cigarettes is not as addictive or harmful as the Welsh Government makes out what is the justification for wanting to include retailers selling electronic cigarettes on a register alongside tobacco products?

Is there currently a problem with large numbers of under 18s in Wales buying electronic cigarettes on a regular basis? No. Cancer Research UK looked in detail at two major studies into electronic cigarette use amongst young people in Wales, they concluded, "Looking specifically at two studies dedicated the use of e-cigarettes amongst young people in Wales only a minority of teenagers who try e-cigarettes go on to become regular users. And the majority of those who do use the devices regularly were already smokers."⁷⁵

What the creation of this register will do is place a regulatory and financial hurdle in front of a small businessman thinking of selling electronic cigarettes and/or e-liquids. As the Welsh Government has made clear there will be a financial cost to be on this register, there will be paperwork to complete, and there will be an inspection regime linked to the register. All of this will act as a disincentive to anyone thinking of setting up a new business selling electronic cigarettes or starting to sell electronic cigarettes in an established business. Not only will this result in fewer businesses and jobs being created throughout Wales, it will also have a negative impact on public health.

With literally thousands of devices and flavours, and multiple nicotine strengths available how does a smoker wishing to switch to vaping know what device, nicotine strength, and flavour is right for them? Initially they do not and that is why vape shops are so fundamentally important.

By visiting a vape shop a smoker benefits not just from the expertise of the vendor, but critically, they are able to sample the different devices, nicotine strengths, and flavours. This allows them to find a device, nicotine strength, and flavour that are right for them. Virtually no smoker walks into a shop picks up a cig-a-like product and successfully switches to vaping, it is more complicated than that. The expert advice and the product sampling are critically important in virtually all successful switch attempts.

If the Welsh Government introduces a bureaucratic and costly registration system fewer vape shops will open and some established vape shops will close, particularly if the proposed ban on vaping in enclosed public and work places is also introduced. This will place a barrier in the road of someone making the switch from smoking to vaping. Furthermore, by including electronic cigarettes on the same register as tobacco products the Welsh

⁷¹ <http://www.scottishparliament.tv/category.aspx?id=19&page=1&sort=date>

⁷² <http://www.vidarholen.net/contents/junk/nicotine.html>

⁷³ <http://www.crcpress.com/product/isbn/9781466515482>

⁷⁴ [http://www.drugandalcoholdependence.com/article/S0376-8716\(14\)01986-3/abstract](http://www.drugandalcoholdependence.com/article/S0376-8716(14)01986-3/abstract)

⁷⁵ <http://www.cancerresearchuk.org/about-us/cancer-news/news-report/2015-04-16-regular-e-cigarette-use-low-among-teens-analysis-suggests>

Government is creating the impression that it sees the two products as the same and carrying the same risk. This sends out completely the wrong message to existing vapers and smokers.

The key health benefit of electronic cigarettes is determined by how many smokers switch to them or use them as a staging post to quitting completely. This means that they have to be an attractive alternative to tobacco cigarettes for established smokers. It would therefore be perverse and counterproductive from a public health standpoint to subject electronic cigarettes to the same restrictions as tobacco products.

The Welsh Government and the Welsh Assembly's Health and Social Care Committee must ask themselves if the inclusion of retailers of electronic cigarettes and e-liquid on a register alongside tobacco products is likely to increase or decrease the number of smokers switching to vaping.

The very fact that the Welsh Government feel compelled to include retailers of electronic cigarettes and e-liquid on a register alongside tobacco products implies that they consider nicotine to be a dangerous substance. This risks consumers gaining a distorted and confused view on the safety of electronic cigarettes compared with smoking tobacco.

Rather than discouraging their use and placing unnecessary restrictions on their sale, surely the Welsh Government should, as the Royal Society for Public Health⁷⁶ and the UK Government's own Behavioural Insights Team⁷⁷ have proposed – encourage their use.

9. Do you believe the establishment of a register will help protect under 18s from accessing tobacco and nicotine products?

Totally Wicked is an independent company with no links to the tobacco industry, furthermore neither electronic cigarettes nor e-liquids are tobacco products or tobacco related products. Totally Wicked therefore will not comment on issues directly relating to the regulation of tobacco products.

Totally Wicked does not believe the establishment of a register will help protect under 18s from accessing electronic cigarettes.

Totally Wicked believes that electronic cigarettes are a product for current/former adult smokers and current users of nicotine containing products. Therefore Totally Wicked fully supports a ban on the sale of electronic cigarettes to those under the age of 18.

Totally Wicked has been voluntarily implementing a ban on the sale of electronic cigarettes and e-liquids to those under the age of 18 for the past seven years, as have other responsible companies.

Totally Wicked has done this not because there was a problem with people under the age of 18 routinely coming to buy its products, but because the company believes electronic cigarettes to be an adult product.

Is there currently a problem with large numbers of under 18s in Wales buying electronic cigarettes on a regular basis? No. Cancer Research UK looked in detail at two major studies into electronic cigarette use amongst young people in Wales, they concluded, "Looking specifically at two studies dedicated the use of e-cigarettes amongst young people in Wales only a minority of teenagers who try e-cigarettes go on to become regular users. And the majority of those who do use the devices regularly were already smokers."⁷⁸

The register is therefore not necessary as there is not a significant problem that needs addressing.

⁷⁶ <http://www.theguardian.com/society/2015/aug/13/health-bosses-promote-e-cigarettes-harmful-tobacco-smoking-experts>

⁷⁷ <https://civilservice.blog.gov.uk/2015/08/11/how-the-nudge-unit-threw-light-on-lighting-up/>

⁷⁸ <http://www.cancerresearchuk.org/about-us/cancer-news/news-report/2015-04-16-regular-e-cigarette-use-low-among-teens-analysis-suggests>

10. Do you believe a strengthened Restricted Premises Order regime, with a national register, will aid local authorities in enforcing tobacco and nicotine offences?

Totally Wicked is an independent company with no links to the tobacco industry, furthermore neither electronic cigarettes nor e-liquids are tobacco products or tobacco related products. Totally Wicked therefore will not comment on issues directly relating to the regulation of tobacco products.

According to the Welsh Government a magistrates' court can currently impose a Restricted Premises Order (RPO) on an individual who has persistently (at least three separate occasions within a two year period) sold tobacco to those under the age of 18. A RPO prohibits all sales of tobacco products (including cigarette papers) for a period up to, but not exceeding one year.

Totally Wicked supports the extension of the RPO regime to cover individuals who persistently sell electronic cigarettes or e-liquids to those under the age of 18. However, this bill draws equivalence with tobacco in terms of punishment. Someone who persistently sells electronic cigarettes or bottles of e-liquid to under 18s is prohibited from selling electronic cigarettes and e-liquids for the same period as someone who persistently sells tobacco products to under 18s.

To be clear, Totally Wicked supports the ban on selling electronic cigarettes and e-liquids to those under the age of 18, but as Totally Wicked set out in answer to question seven, by punishing persistent sellers of electronic cigarettes/e-liquids and tobacco products to under 18s in the same way implies that the Welsh Government views these two products as the same. They are not the same. Tobacco is a highly dangerous product that currently results in around 5,450 people deaths from tobacco related illnesses every year in Wales,⁷⁹ costing the Welsh taxpayer £302 million.⁸⁰ In contrast electronic cigarettes are recognised as being at least 95 per cent less harmful than tobacco products, have helped at least 130,000 smokers in Wales to reduce the amount they smoke or quit all together,⁸¹ and they cost the Welsh taxpayer nothing.

Yes persistent offenders should be punished but the period of time an individual is prohibited from selling electronic cigarettes and e-liquids should be lower than that for tobacco products, reflecting the significantly lower risk of electronic cigarettes (see question seven for more detail).

Totally Wicked does not support the creation of a new register for retailers of such products believing it to be unnecessary and disproportionate.

11. What are your views on creating a new offence for knowingly handing over tobacco and nicotine products to a person under 18, which is the legal age of sale in Wales?

Totally Wicked is an independent company with no links to the tobacco industry, furthermore neither electronic cigarettes nor e-liquids are tobacco products or tobacco related products. Totally Wicked therefore will not comment on issues directly relating to the regulation of tobacco products.

Totally Wicked supports the creation of a new offence of knowingly handing over electronic cigarettes and/or e-liquids to a person under the age of 18.

Totally Wicked believes that electronic cigarettes are a product for current/former adult smokers and current users of nicotine containing products. Therefore Totally Wicked fully supports a ban on the sale of electronic cigarettes to those under the age of 18.

Totally Wicked has been voluntarily implementing a ban on the sale of electronic cigarettes and e-liquids to those under the age of 18 for the past seven years, as have other responsible companies.

In all Totally Wicked's physical shops, the company enforces a "Challenge 21" policy to ensure that no person under the age of 18 purchases electronic cigarettes or e-liquids. Totally Wicked's e-commerce website does not have a box asking users to verify their age as over 18 before entry. Totally Wicked believes it is too easy for a

⁷⁹ <http://www.wales.nhs.uk/sitesplus/922/page/59800>

⁸⁰ ASH Wales/Cymru and BHF Cymru (2013). The economic cost of smoking to Wales: a review of existing evidence

⁸¹ <http://ashwales.org.uk/en/information-resources/topics/electronic-cigarettes>

potential customer to simply tick the box even though they may be under 18 years of age, a point this consultation acknowledges. However, Totally Wicked uses a Paypal payment portal that disallows account holders that are under 18. Totally Wicked also retains a register of postcodes where parents have informed the company that they believe their children have or may have attempted to buy its products online.

12. Do you believe the proposals relating to tobacco and nicotine products contained in the Bill will contribute to improving public health in Wales?

Totally Wicked is an independent company with no links to the tobacco industry, furthermore neither electronic cigarettes nor e-liquids are tobacco products or tobacco related products. Totally Wicked therefore will not comment on issues directly relating to the regulation of tobacco products.

Totally Wicked does not believe that the proposals relating to electronic cigarettes contained in this bill will contribute to improving public health in Wales. If the proposals relating to electronic cigarettes contained within this bill are implemented then this bill will contribute towards a worsening of public health in Wales.

Every year in Wales around 5,450 people die from a tobacco related illnesses according to figures produced by the Welsh Government⁸² with tobacco related illnesses costing the Welsh taxpayer £302 million per year.⁸³ Figures produced by ASH Wales/Cymru show that a staggering 21 per cent of the adult population in Wales still smoke.⁸⁴ Part two of this bill should therefore be focussed on working to reduce this number.

As further evidence emerges into the effectiveness and efficacy of electronic cigarettes it is clear that any concerns the Welsh Government may previously have had were unfounded. Electronic cigarettes are now the number one quitting aid used by smokers⁸⁵ and to date at least 130,000 Welsh smokers have made the switch to vaping,⁸⁶ cutting down the amount they smoked or quitting smoking entirely. This should be a cause for celebration rather than concern. Left to develop under the current proportionate regulatory regime electronic cigarettes could make a significant reduction in the disproportionately high smoking rates in Wales. In time electronic cigarettes have the potential to render tobacco obsolete.

However, if the Welsh Government goes ahead and implements the proposals contained within the Public Health (Wales) Bill then all of this tremendous potential for public health good will not just come to an end, much of the good achieved to date will be reversed.

The key health benefit of electronic cigarettes is determined by how many smokers switch to them or use them as a staging post to quitting completely. Vaping in public and in particular enclosed public places has a vital role to play in this.

A smoker walking down the street is unlikely to walk up to a vaper to ask them what they are doing. However, a smoker in an enclosed public environment like a pub or work place will go up to a vaper and have that crucial initial conversation about how to start and where to go for advice and support.

Many smokers have tried to quit numerous times using NRT products and have failed. However, with vaping they have cut down or ceased smoking. This is not surprising as NRT products have a 90 per cent failure rate.⁸⁷ Electronic cigarettes by comparison are recognised as being at least 60 per cent more effective in helping smokers to quit.⁸⁸

Electronic cigarettes deliver clean nicotine – without the tar, carbon monoxide, and volatile hot gases of cigarettes. For smokers who switch, they hugely reduce risk, while satisfying any need for nicotine and some of the behavioural aspects of smoking. As the UK Government has recognised, it is much easier to substitute a similar

⁸² <http://www.wales.nhs.uk/sitesplus/922/page/59800>

⁸³ ASH Wales/Cymru and BHF Cymru (2013). The economic cost of smoking to Wales: a review of existing evidence

⁸⁴ http://www.ash.org.uk/files/documents/ASH_93.pdf

⁸⁵ <http://ashwales.org.uk/en/whats-new/we-welcome-extensive-research-by-public-health-england-on-the-safety-of-electronic-cigarettes>

⁸⁶ <http://ashwales.org.uk/en/information-resources/topics/electronic-cigarettes>

⁸⁷ Dr Jed Rose, Director of the Duke Center for Smoking Cessation and a Professor in the Department of Psychiatry and Behavioral Sciences at Duke University Medical Center, speaking at the Global Forum on Nicotine (Warsaw, Saturday 6th June 2015): <http://gfn.net.co/downloads/2015/Plenary%20Jed%20Rose.pdf>

⁸⁸ Study carried out on 5,000 smokers, by Professor Robert West looking at the success rate of different methods to stop smoking: nicotine gum, nicotine patches, nothing, or e-cigarettes. Reported on BBC Breakfast 28 April 2014

(less harmful) behaviour than to eliminate an entrenched one.⁸⁹ Fundamentally, unlike NRT products they are customisable to an individual smokers needs. A vaper can choose what device they want, they can choose their nicotine strength, and they can choose their flavour of e-liquid.

With literally thousands of devices and flavours, and multiple nicotine strengths available how does a smoker wishing to switch to vaping know what device, nicotine strength, and flavour is right for them? Initially they do not and that is why vape shops are so fundamentally important.

By visiting a vape shop a smoker benefits not just from the expertise of the vendor, but critically, they are able to sample the different devices, nicotine strengths, and flavours. This allows them to find a device, nicotine strength, and flavour that are right for them. Virtually no smoker walks into a shop picks up a cig-a-like product and successfully switches to vaping, it is more complicated than that. The expert advice and the product sampling are critically important in virtually all successful switch attempts. This means that they need to vape in an enclosed public place.

The Welsh Government states that the provisions included in the Bill are not intended to interfere with the use of electronic cigarettes in any smoking quit attempt, but that is exactly what they will do, because they limit the accessibility, attractiveness, and opportunities to use electronic cigarettes.

If the Welsh Government succeeds in banning vaping in enclosed public places then vapers will be forced to go back to standing with the smokers, re-enforcing their smoking habits and letting them wrongly understand that vaping is the same as smoking, when in reality it is at least 95 per cent less harmful.⁹⁰ This will expose them to the dangers of second-hand smoke and penalises a smoker that has taken decisive action to switch to a less harmful product. It is the equivalent of holding an Alcoholics Anonymous meeting in a pub. Why would any government do this?

The Welsh Government's proposed ban will also prevent vape shops from allowing smokers to sample devices, nicotine strengths, and flavours and the Welsh Government's own impact assessment acknowledges this. As a direct consequence of this the importance of vape shops will decline so many will close, resulting in empty premises and unemployment. More importantly, without the ability to sample nicotine strengths, devices, and flavours in advance, a smoker would simply have to guess what flavour they might like, what nicotine strength they might need, and what device is best for them. Virtually all will make the wrong guesses and few will go back to try and get it right for a second time. This will mean that fewer smokers will successfully switch to vaping and will therefore continue to smoke and die prematurely.

Far from improving public health in Wales, this bill will remove fundamentally important aspects of the switching process from smoking to vaping: the ability to sample the different devices, nicotine strengths, and flavours. Take away a smokers ability to vape in a vape shop and you put a barrier in the road to them switching to a significantly less harmful alternative. Take away a smokers ability to witness vaping at work or in the pub and you deprive them of the chance encounter that for many smokers was their first step on the road to vaping. What possible public health benefit does the Welsh Government hope to achieve with this proposed ban?

⁸⁹ <https://civilservice.blog.gov.uk/2015/08/11/how-the-nudge-unit-threw-light-on-lighting-up/>

⁹⁰ <https://www.gov.uk/government/publications/e-cigarettes-an-evidence-update>